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EMPLOYMENT & TECHNICAL EDUCATION & TRAINING DEPARTMENT

ORDER

The 20th March 2013

SUBJECT— Conduct of Examination in a fair and transparent manner following the provisions of the Odisha Conduct of Examination Act, 1988 and the Rules and Regulations of the Act and Statute of the University concerned.

No. 1803—I-TTE-06/2013-ETET.—It has come to the notice of the Government that in some Institutions the examinations are not conducted in a fair and transparent manner, thus affecting the quality in education particularly the excellence in Technical Education.

In order to curb the unfair means in the examination process, some of the existing legal provisions as mentioned below are required to be enforced by the different agencies while conducting the examinations.

(A) Section 3 of the Odisha Conduct of Examination Act, 1988 under the caption “Prohibition of use of unfair means of examinations” have made the following provisions :

(1) “No person shall adopt or take recourse to unfair means at any recognized examination.

(2) No person shall aid, abet or conspire in the use of unfair means at any recognized examination.”

(B) Section 7-b(iii) of the aforesaid Act under the caption ‘prohibition of loitering etc., examination centre etc.,’ provides that,

“indulging in such other activity as is likely to be prejudicial to the conduct of such examination or is likely to affect the secrecy thereof.”

(C) For the above omissions and commissions the penalty provision under Section 9 of the aforesaid Act prescribes as follows :

“Whoever contravenes any of the provisions of Sections 3 to 8 shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to three thousand rupees but shall not be less than five hundred rupees or with both.”

(D) Section 10(2) of the Odisha Act 2 of 1988 prescribes that “all offences under this Act shall be cognizable and non-bailable.”

In addition to the above provisions of the Odisha Conduct of Examination Act, 1988, the First Statutes of BPUT published in the extraordinary issue of the *Odisha Gazette* on the 30th December 2006, under Chapter III, Rule 30, the power has been given to the Conducting Board to monitor the conduct of examination and to recommend punishment for malpractice cases reported during any examination.

Similarly, under Chapter - IV of the said Statute, it has been prescribed that if any teacher is found for committing the following offences, his registration as a teacher of the University will be automatically cancelled.

Rule 37(vi)—Interfering into the examination and evaluation processes of the University

Rule 37(vii)—Helping the students to do malpractices or encouraging malpractices during the examination.

Award of arbitrary marks and giving false information to the University on such matters as attendance, internal examination marks, sessional marks, project marks, etc.

Under Chapter - VI, where the rules have been prescribed for the affiliation of the colleges, the University has been empowered to reserve the right to cancel the affiliation of a college which fails to comply with the followings :

Rule 50 (3)(v)—“Fails to conduct University examinations in fair and transparent manner as per the stipulations of the University.

Rule 50 (3)(vi)—The college authorities including any one or more of the teachers and non-teachers encourage malpractices and help the students during the examination. Evidence and reports of the supervisors and/or the flying squad members on the matter will be sufficient to cancel affiliation of the college.

Rule 50 (3)(vii)—Arbitrary award of marks in class tests, laboratory, sessional projects and other internal assessment components. The report of the Inspection Team on the above shall be treated as the proof for such violations.”

Over and above, Chapter - VII of the First Statute of BPUT, 2006 under Rule 63 in the caption 'conduct of examination' has speaks on the ramifications if unfair means in the examinations are noticed. The said Rule reads as follows :

“(1) All instances of unfair means in examinations whether reported by the Centre Superintendents/Invigilators/Supervisors/Observers/Examiners or otherwise shall be placed before the Conducting Board by the Director, Examinations as soon as practicable but preferably before the results of the relevant examinations are passed for publication. The Conducting Board shall consider the reports and other materials, if any, and make a report of the scope and extent of the unfair means resorted to and specifically whether use has been made of unauthorized or incriminating material referred to in the reports or produced before the Conducting Board.

(2) In case the Board is satisfied that there is *prima facie* evidence of resort to unfair means in the examinations, the Director of Examinations shall refer to the Disciplinary Committee to consider the cases.”

Along with the above provisions as to how the malpractice cases will be disposed of, the Rule 64 of the said Statute has a provision for that. The Rule 64 speaks that “The Director, Examinations shall form a Disciplinary Committee with the approval of the Vice-Chancellor to consider the cases of malpractices. Based on the recommendation of the Committee, the Vice-Chancellor shall order for disposal of such cases appropriately.”

If a congruous reading will be made of the Odisha Conduct of Examination Act, 1988 with the aforesaid provisions of the First Statute of BPUT, 2006, it is clearly understood that the Disciplinary Committee after taking cognizance of the malpractice cases can recommend to the Vice-Chancellor, BPUT for requesting the proper authority to take suitable legal action under the provision of the Odisha Conduct of Examinations Act, 1988.

Legal provisions have been made to empower the implementing agencies to stop the practice of unfair means in the examinations and the same are required to be enforced by the implementing agencies, i. e. by the Universities concerned, affiliated/constituent colleges, Councils and other agencies.

It is high time that the concerned implementing agencies are required to be informed about the law of the land and their duties as to how the said law relating to their field shall be implemented.

The above issue was placed before the Government for passing suitable orders to curb the menace of adopting unfair means in the examination system. The Government after careful consideration have been pleased to order as follows :

(1) The Vice-Chancellor, BPUT be informed regarding the prescribed laws which empower the authorities for initiating suitable action as deemed proper under the rules meticulously against the wrongdoers to curb the menace of the maipractice.

(2) The enabling provisions of the Odisha Conduct of Examinations Act, 1988 and the First Statute of BPUT of 2006 be communicated to all the Affiliated/Constituent colleges in reminding them the duties they are to scrupulously discharge under the above provisions of law.

(3) The Principals and Superintendents of examinations of colleges where examination centers are located be intimated on their duties and functions under the above provisions of the law failing which necessary steps as prescribed under the law shall be initiated against the colleges for deaffiliating them from the University.

(4) Vice-Chancellors of the Universities and the Principals/Directors of the Technical and Professional Institutes be directed to pass on suitable instructions to their staff members who are being deputed as Supervisor/Observer/Member of the Squad to supervise the conduct of examination to initiate suitable action at the spot or report confidentially the incidents of malpractice, if any, found during the process of the examination for further necessary action, if at the spot they fail to initiate any action as deemed proper against the erring Institute or the wrongdoers.

(5) If anyone fails to adhere to the above legal provisions meticulously, he/she will be taken to task by the appropriate authority under the provisions of the Odisha Conduct of Examination Act, 1988 and the Act and Statutes of the University/Council concerned.

(6) If irregularities in conducting examination is found in any manner in an institution then the same will be debarred from conducting examination henceforth and the status of the examination centre will be withdrawn forthwith.

(7) To detect the instance of malpractice during the examination, installation of CCTV be made compulsory in all examination centres of BPUT and the Vice-Chancellor, BPUT be instructed to ensure the provisions of CCTV in all the examination centres before declaring an institution as an examination centre and the recording of the CCTV be transmitted to the University at the end of a semester examination for verification.

The Government order to above effect shall be implemented in letter and spirit while conducting examination and for any deviation committed by the implementing agencies in executing the duties shall be seriously viewed and action as deemed proper shall be taken against the person(s) responsible for such violation of Law of the Land.

By order of the Governor

C. S. KUMAR

Commissioner-*cum*-Secretary to Government